



TITLE 3 – BUSINESS LICENSING

CHAPTER 2 BUSINESS LICENSING IN GENERAL

Ordinance No. 08-017

SECTION I LICENSING IN GENERAL

3- 2- 1-1 UNLAWFUL TO OPERATE WITHOUT A LICENSE.

Unless exempted by state or federal law or by this Title, it shall be unlawful for any person to engage in business within Brian Head Town, whether on a temporary or permanent basis, without first procuring the license required by this chapter.

3- 2- 1-2. TRIPLE FEE FOR FAILURE TO OBTAIN REQUIRED LICENSE.

Unless exempted by state or federal law or by this Chapter, any person who engages in business prior to submitting a completed application and payment of all fees shall pay triple the specified fee for said license. The payment of such triple fee shall not relieve any person from fully complying with all the requirements of this Title, nor from any other prescribed penalties.

3- 2- 1-3. LICENSE APPLICATION.

Applications for business licenses shall be made in writing to the Town Licensing Officer or designee. Each application shall state the name of the individual applicant, the name of the business as registered with the State of Utah, the local street address of the business' physical location in Brian Head Town, the business' mailing address, if different from the local street address, the type of business entity (corporation, partnership, limited liability company, sole proprietorship, etc.), the license fee to be paid, the name and street address of the business' registered agent who is authorized to receive service of process, a detailed description of all anticipated business operations for which applicant seeks licensure, and any evidence of applicant's license, state sales tax reporting number, Brian Head business license retail fee, state contractor's license number, if applicable, state real estate broker's license number, if applicable, state daycare licensing number, if applicable, and federal employer identification number, and shall contain such additional information as may be needed for the purpose of guidance of the Licensing Officer in issuing the license. Any change in the above information furnished by the applicant shall be forwarded in writing, within ten (10) days of the change, to the Licensing Officer. License application forms shall be reviewed and kept on file by the Licensing Officer or their designee.

3- 2- 1-4. APPLICATION FEE.

Each license application shall be accompanied by the business license fee required to be paid for the issuance of the license desired. The applicable license fees are listed in the Consolidated Fee Schedule.

3- 2- 1-5. REFUND OF FEE.

Unless otherwise provided herein, no business license fee is refundable for any reason whatsoever, once the license has been issued by the Town, except when the license was issued in error. If a license is denied, applicant shall be entitled to a refund of the amount paid in excess of twenty-five dollars (\$25.00). The sum of \$25.00 shall be retained to offset application processing costs.

3- 2- 1-6. INVESTIGATION.

The Licensing Officer or designee may, at any time prior to the issuance of any business license required by this title, investigate any applicant for such license if the Licensing Officer has reasonable cause to believe that the applicant (1) has filed an application which is incomplete, erroneous, or false in any respect; (2) fails in any respect to qualify to do business in the Town under any federal, state or Town law, rule or regulation; (3) has committed such act or acts as may be grounds for revocation or denial of a license application under any federal, Utah state, or Town law, ordinance, rule or regulation; or (4) investigation is provided for by Town Ordinance. The Licensing Officer or designee may compel the production of documents and witnesses in order to conduct such investigation as provided by this section.

3- 2- 1-7. INSPECTIONS FOR CODE COMPLIANCE.

Prior to the issuance of a license to engage in a new business not previously licensed at that location or an existing business with a change of location, the applicant shall be required to permit inspections to be made of the prospective place of business of the applicant by the appropriate departments of the Town or other governmental agency to ensure compliance with building, fire, health codes, and Town Ordinances that may apply. No license shall be granted unless any required inspections reveal that the prospective place of business is in compliance with the building, fire, and health codes. In addition to the business license fees, the applicant shall pay an inspection fee as set forth in the Consolidated Fee Schedule at the time of application.

Existing places of business licensed within the Town may be inspected periodically by departments of the Town for compliance with building, fire, health and other Town codes. Written notice shall be given by the Licensing Officer or their designee to a licensee upon the finding of any code infractions which notice shall provide for a reasonable period not to exceed sixty (60) days in which to correct such infractions, the failure of which shall result in the revocation of the license by the Licensing Officer or designee.

3- 2- 1-8. LICENSE DENIAL.

The Licensing Officer or designee may deny a license if the applicant:

(A) Has been convicted of a crime involving fraud or dishonesty or a felony by any state or federal court within the past five (5) years or now has criminal proceedings pending against him in any state or federal court for a crime involving fraud or dishonesty or a felony;

(B) Has obtained a license by fraud or deceit or gives false or misleading information in any application;

(C) Has failed to pay required taxes or fees imposed by the Town;

(D) Has violated the laws of the State of Utah, the United States Government, or the ordinances of Brian Head Town governing operation of the business for which the applicant is applying for the license;

(E) No longer has a current, valid permit or license from any other federal or state agency necessary for applicant to engage in the business that is the subject of the application;

(F) Has failed to comply with the conditions and requirements of any Town ordinance;

(G) Operates an offensive business that has become a business or special events nuisance, as defined herein or as determined by the Brian Head Town nuisance ordinance; or

(H) Fails to meet the standards for the license classification set forth in section 3-2-1-18 herein.

Applications may also be denied on the grounds that the general health, welfare, and public safety of the community makes the issuance of such a license inappropriate.

3- 2-1-9. LICENSE ISSUANCE OR DENIAL.

1 Within a reasonable time, the Licensing Officer or designee shall notify the applicant of:

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3 (A) the denial of a license and the reason for such denial; or

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5 (B) the issuance of the license.

6 Upon receipt by the Licensing Officer or designee of a completed license renewal application and full payment of all
7 fees required hereunder for said application, an applicant for a renewal license may continue its business operations
8 during the review and inspection process. Any applicant for a new license who conducts or engages in business during
9 the review period proceeds at his or her own risk and no legal or equitable rights exist prior to the issuance of the actual
10 license certificate.

11 **3- 2-1-10. APPEALS OF LICENSE DENIAL.**

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13 A license application denial by the Licensing Officer or designee may be appealed to the Brian Head Hearing Officer by
14 filing a written notice of appeal with the Town Clerk within ten (10) days of denial of the license application. The
15 Hearing Officer shall hear the appeal within thirty (30) days of the filing of the notice of appeal. After the decision of the
16 Hearing Officer, the applicant may request an appeal of the Hearing Officer's decision to the Town Council for a final
17 decision on behalf of Brian Head Town following the same procedures set forth herein for appeal of the Licensing
18 Officer's decision.

19 20 **3- 2-1-11. ISSUANCE OF LICENSE CERTIFICATE.**

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22 All issued license certificates shall be signed by the Licensing Officer or designee, under the seal of the Town, which
23 signature may be placed mechanically, and contain the following information:

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25 (A) The name of the person to whom such certificate has been issued;

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27 (B) The name of the business, if applicable;

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29 (C) The type of license

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31 (D) The term of the license with commencement and expiration date

32 (E) The purpose(s) for which the licensee is authorized to do business;

33 (F) The local street address;

34 (G) The license or permit number; and

35 (H) A statement that the license is non-transferable.

36 37 **3- 2-1-12. LICENSE PERIOD.**

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39 The Business License period will be from October 01 through September 30 of the following year.
40 Renewed license certificates shall be valid through the next following September 30 unless revoked pursuant to this
41 Title. New license certificates issued between August 1 and September 30 shall be valid through September 30 of the
42 following year unless revoked.

43 44 **3- 2-1-13. DUTY TO DISPLAY LICENSE.**

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46 Every licensee licensed pursuant to the provisions of this chapter shall keep the license displayed and exhibited while the
47 same is in force in some conspicuous part of the place of business. Every licensee not having a fixed place of business

shall carry such license with them at all times while carrying on the business for which the license is issued and shall produce the license for inspection when requested to do so by any person.

3- 2-1-14. BRANCH ESTABLISHMENTS.

A separate license must be obtained for each branch establishment or separate physical location in which business is engaged in, within the Town, as if such branch establishment or location were a separate business, and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license, provided, that warehouses and distributing places used in connection with or incident to a business licensed under this chapter shall not be deemed to be separate places of business or branch establishments.

3- 2-1-15. SEPARATE BUSINESSES, LICENSED PREMISES.

Where two or more persons conduct separate businesses at the same location, each such person shall obtain a separate license for each such business and pay the required license fee for such business. Where a person is a licensee pursuant to provisions in the Beer and Liquor Licensing chapter of this Title, that person shall obtain a separate business license for each licensed premises.

3- 2-1-16. UNRELATED BUSINESS ACTIVITIES

(A) DEFINITION. For purposes of this section, “unrelated business activities” shall mean two or more activities in which a licensee engages in or conducts business that the Licensing Officer or designee categorizes under separate uses and/or services.

(B) PROVISIONS TO DO BUSINESS UNDER ONE BUSINESS LICENSE. If the purposes for which a licensee is authorized to do business include multiple unrelated business activities, the Town shall identify each authorized unrelated business activity on the license. The business shall set forth and limit the unrelated business activity authorized by the business license to the location identified in the business license issued.

(C) MODIFICATION OF BUSINESS LICENSE. All provisions of this Title, for denial, revocation, suspension or change the business license shall apply equally to all unrelated business activities identified on the issued license. Where an unrelated business activity is denied, revoked, suspended or voluntarily terminated in accordance with this Title, the applicant must notify the Town Business Licensing Officer within 10 days to amend the business license or the Licensing Officer may amend the business license on his/her own initiative. All other business activities authorized by the business license shall remain in effect insofar as they are not affected by the revoked or suspended unrelated business activity. A modified business license will be issued which will identify all of the approved unrelated business activities of the business. A fee shall be retained to offset application processing costs as identified in the Consolidated Fee Schedule.

3- 2-1-17. REGULATORY FEES IMPOSED.

There is hereby imposed and levied an annual business license or permit fee based on the types of businesses described below. Fees are identified in the Consolidated Fee Schedule on file with the Town Licensing Officer.

BRIAN HEAD TOWN BUSINESS FEES	
Application	Type of License Issued
New Business Application	License
Renewal Business Application	License
Special Event Coordinator	License
Special Event Vendor	Permit (per event)
Door-to-Door Solicitation Employee	Permit (temporary)
Door-to-Door Business	License

Sexually Oriented Business	License
Sexually Oriented Business Employee	Permit per employee
Outdoor Sales License	Permit
Street Vendor	License

3- 2-1-18. REGULATION OF SPECIFIC BUSINESSES.

(A) **CONTRACTORS AND BUILDERS.** All general contractors and subcontractors, including but not limited to, builders, electricians, plumbers and back flow device technicians, with their principal place of business within Brian Head Town, shall be assessed a license fee each year as set forth in the Consolidated Fee Schedule, which shall be paid and a business license issued prior to engaging in any construction within the Town unless exempted from licensure under Utah law.

No contractor shall be issued a business license under this section unless and until they have provided a copy of a valid Utah State Contractors license which validates that the contractor is currently licensed with the State of Utah Department of Commerce, including the state license number(s) and date of expiration. If said state license expires prior to September 30th of the year, each contractor must provide proof of renewal within ten (10) days of renewal or shall forfeit the Town business license for the balance of the year.

(B) **STREET VENDORS & MOBILE FOOD VENDORS**

It shall be unlawful to sell food, flowers, agricultural products, ice cream, candy, popcorn or other goods or merchandise from push carts, mobile wagons, or motor vehicles on private or public property except as authorized and licensed under this Chapter.

(1) **SALES AT CONSTRUCTION SITES.** A business license may be obtained for a mobile food vendor to sell food from motor vehicles located on private property as a service to construction sites. Licensees must list the construction sites they intend to serve on the license application, and update the list as needed throughout the year.

Licensees shall have written permission from the owner of the private property to sell food from that property, and shall not remain at any one site for more than a two (2) hour period per day.

(2) **SALES WITHIN THE PUBLIC RIGHT-OF-WAY.** In order to control vending within any public right-of-way in Brian Head Town, except at construction sites, only those mobile food vendors who have obtained the grant of a franchise from the Town may obtain business licenses to operate such businesses. Absent such a franchise, vending within any public right-of-way is strictly prohibited.

(3) **TERMS AND CONDITIONS.** Licensed street vendors shall be subject to the following terms and conditions:

(a) **LICENSE FEE.** The license fee for a street vendor business license shall be as set forth by the Consolidated Fee Schedule.

(b) **HEALTH DEPARTMENT APPROVAL.** All vendors serving food or garden produce for human consumption from any cart, wagon, or motor vehicle must have the means of preparing, keeping, and serving the foods approved by the Iron County Health Department. This approval, in writing, must be submitted as part of the license application. Withdrawal of Health Department approval for sanitary or health violations is grounds for revocation of the Town license.

(c) **LIMITATION ON LOCATIONS.** Vending of food from motor vehicles, which shall include any motorized means of conveyance that is required to be licensed by the State Department of Motor Vehicles, shall be restricted to the sale of food at construction sites or Special Events. Street vending of food is prohibited in locations that are within 500 feet of any established and properly licensed business conducting food sales. Street vending on Town rights-of-way during construction or other situations creating a public health or safety concern may be prohibited by the Town Building Department or Public Safety Department. The Town will inform any franchise holder of these limitations and the duration of their effect.

(d) **STREET VENDORS REQUIRED TO MOVE LOCATION.** It shall be unlawful for any street vendor to obstruct pedestrian or vehicular traffic on streets or sidewalks. It shall also be unlawful for any street vendor to remain in a fixed location for more than two hours at a time. Vendors shall move a distance of at least two hundred fifty feet (250') from their prior location every two hours during which they are conducting business. It shall be unlawful for any street vendor to conduct business in a location that impairs reasonable pedestrian or vehicular access to any adjoining building, alley, yard or other property.

(e) **FRANCHISE AGREEMENT.** The Town, in its sole discretion, may determine the number of franchises to award based upon public necessity, demand of service, pedestrian and vehicular traffic compatibility, competition, and public safety. Any violation of the Franchise Agreement is grounds for business license revocation, in addition to any other remedy at law.

(C) **NIGHTLY RENTAL.** All nightly lodging facilities must be licensed before being offered for rent or used for nightly lodging. Licensed/contracted property management or rental agencies do not require a separate license for each rental location.

(1) **LICENSE ISSUANCE.** The business license for nightly lodging facilities will be issued by the Town upon payment of necessary fees and upon a finding by the Licensing Officer or designee that the review criteria established below have been satisfied.

(2) **LICENSEE.** The applicant and licensee for nightly lodging facilities under this section shall be the owner of the facility and/or the designated property manager, if any.

(3) **APPLICATION PROCEDURE.** In addition to the information required by section 3-2-1-3 herein, all new and renewal license applications for nightly lodging facilities must contain the name of the owner and the property manager, if any, a sales tax collection number, the physical address, the address and telephone number of the owner and/or property manager who is available by telephone and all other information requested on the application forms. It is the licensee's duty to supplement all forms as information changes or as units change from one owner or manager to another.

(4) **MANAGEMENT STANDARDS.** If the nightly lodging facility is or is to be managed by other than the owner of the nightly lodging facility, the nightly lodging facility must be properly managed by a property manager as a condition to receiving and maintaining a valid business license. In the event a homeowner's association exists, the association's property manager may be responsible for the nightly lodging facility management. In the event an owner agrees to be responsible for property maintenance, the licensee must present a statement to that effect signed by the owner. The minimum services required and management regulations include:

(a) Snow removal during winter months to a level that allows safe access to the nightly lodging facility over the normal pedestrian access to the unit.

(b) Snow removal service to and of off-street parking facilities associated with the nightly lodging facility so that off-street parking is at all times available for use of the occupants.

(c) Summer yard maintenance, including landscaping, to a level that is consistent with the level of landscaping and maintenance on adjoining and nearby properties.

(d) Structural maintenance to ensure building, health, safety, and fire code compliance.

(e) Parking. Must be in compliance with the Brian Head Parking Ordinance and other state laws and regulations.

(f) Inspections. Each unit will be inspected for safety issues such as fire extinguisher, smoke detector's, etc. if they are renting to the public.

(g) Signs. Are permitted under the Town Sign Ordinance, Chapter 14 of the Brian Head Land Management Code.

(h) Commercial Uses Prohibited. Nightly lodging facilities may not be used for commercial uses not otherwise permitted in the zone. Nightly lodging facilities may not be converted to corporate sponsor or business houses which are used primarily to distribute retail products or personal services to invitees for marketing or similar purposes,

regardless of whether such products or services are charged for.

(5) **NOISE AND SAFETY CONTROL.** The licensee and the owner of nightly lodging facilities under this section are responsible for regulating noise created by the occupants of the unit. Violation of any Town noise ordinance, failure to use designated off-street parking, illegal conduct, or any other abuse which violates any law regarding use or occupancy of the licensed premises, is grounds for revocation of the license. Failure to collect and deposit sales tax is also a violation of the license and grounds for revocation.

(6) **REVIEW CRITERIA.** In determining whether or not a business license for a nightly lodging facility shall be issued, the application shall be reviewed to see if, in addition to standards and conditions applicable to issuance of all business licenses, the following conditions and standards are met:

(a) The unit is located within a zone designated as allowing rentals or nightly lodging facilities for the period which the license is applied for.

(b) The Brian Head Building Department and Brian Head Public Safety Department has reviewed the business license application for compliance with the all building, health, and fire codes. Inspection of the unit may be required under Section 3-2-1-7. The applicant shall bear the cost of any such inspection and any re-inspection which may be required. The cost shall be determined by the prevailing hourly rate of the Brian Head Town Building Department and/or Public Safety Department.

(c) The access to the nightly lodging facility and the layout of the unit is such that noise and physical trespass from the proposed rental unit is not likely to be a substantial intrusion to the adjoining properties.

(d) The applicant may designate a property manager which is a property management company, licensed real estate broker, the owner of the nightly lodging facility. The property manager or owner shall be responsible for management of the nightly lodging facility in accordance with all state, federal, and local laws, including, at a minimum, the requirements of this Chapter. Unless otherwise designated in writing to the Town, the property manager is also designated as the agent for receiving all official communications under this Title from Brian Head Town.

(e) The application must bear a sales tax collection and accounting number for the nightly lodging facility. This number may be the sales tax accounting number used by the Property Management Company or owner responsible for that unit, or may be specific to the unit, but no license will be effective until the sales tax number is provided.

(E) **RESTAURANTS, FOOD SERVICE, TAVERNS, ETC.** Restaurants will be required to meet the requirements of the Utah State Health Department and Iron County Health Department and will provide a copy of the valid food handlers permit with the submittal of the application. Restaurants and food services must meet the requirements of all local ordinances of Brian Head Town and Iron County, and state and federal laws, regulating food services.

(F) **RESIDENTIAL GARAGE SALES.** No license shall be required for sales of surplus household goods or furnishings at a private residence in the garage or yard. If a garage sale is held more frequently than three (3) days in any one calendar quarter at the same residence, it shall be deemed to be conducting business on a regular basis and a regular business license for the sale of that kind of merchandise is required. If the sale is in a zone that does not permit the sale of merchandise as a permitted or conditional use, further sales are unlawful. Sales tax on all sales is required under state law, and this Title shall not be construed as attempting to waive the requirement that tax be collected and/or paid to the proper taxing entities.

(G) **CHILD CARE SERVICES.** Day Care Services will be required to meet the requirements of the Utah State Department of Health and will provide a copy of the valid permit with the submittal of the applications. Day Care Services must meet the requirements of all local ordinance of Brian Head Town and Iron County, and state and federal laws, regulating child care services.

3-2-1-19. OUTDOOR SALES.

A licensed business may hold an outdoor sale five (5) times a year for a duration of no longer than five (5) days for each outdoor sale on public sidewalks or streets adjoining the business on the following terms:

(A) **PROMOTION BY MERCHANT'S ASSOCIATION.** An association representing tenants in a shopping center or other merchant's association representing the businesses in a specific area may apply for an outdoor sale permit for the members of that association by providing a list of the merchants participating, and paying a fee which shall be in lieu of and not in addition to the fee assessed against individual businesses.

(B) **SEASONAL PLANTS.** The Business Licensing Officer may issue permits of longer duration to permit the outdoor sale, on a temporary basis, of Christmas trees, landscaping materials, or plants that are of a type and nature that reasonably require the sale to be conducted out of doors. The permit fee for this kind of outdoor sale shall be as set forth in the Consolidated Fee Schedule and no permit shall have duration of more than eight (8) weeks. These permits may be issued to any person or business. Sales shall be confined to commercial zones and to property under the possession and control of the applicant.

3-2-1-20-. MULTIPLE LICENSING.

Any one person may be issued any of the licenses and/or permits described and created in this Title and may simultaneously hold more than one (1) license, and/or a regular Brian Head business license. The granting of multiple licenses shall not grant privileges not specifically granted by the licenses issued, nor shall the issuance of multiple licenses extend the time limitations imposed on any of these special licenses that are of a temporary nature. Suspension or revocation of one of the multiple licenses shall not act as a suspension of any other license then in effect, unless the grounds for the suspension of one are also the grounds for suspension of other licenses held by the licensee.

3-2-1-21. USE OF PUBLIC PROPERTY.

With the exception of those licenses/permits listed above which specifically grant the right to make use of the Town's streets or sidewalks, all commercial activity shall be confined to private property and to fully enclosed buildings on that property except as provided by this Title.

3-2-1-22. CERTAIN ACTS PROHIBITED.

It shall be unlawful for any person, business, corporation, partnership or other entity to attract or attempt to attract people to that person or that licensee's place of business by calling, shouting, hawking, ringing any bells, horn, sounding any siren or other noise making device, or by displaying any light or lantern, or by waving, hailing or otherwise signaling to passersby or by touching or physically detaining them.

3-2-1-23. EXEMPTIONS.

The licensing provisions of this Chapter shall not apply to the following kinds of activities that would otherwise fall within the purview of this Chapter:

(A) **POLITICAL ACTIONS.** No license shall be required to solicit signatures on petitions of a political nature or to canvass or solicit funds on behalf of candidates for office or ballot issues. Campaign literature may be delivered to homes, subject to the delivery conditions set forth in subsection (F) below.

(B) **RELIGIOUS ACTIONS.** No license shall be required of persons exercising their right to express their religious views, provided however, that no person shall use this exemption to sell merchandise. Delivery of any publication or material shall be subject to the delivery conditions set forth in subsection (F) below.

(C) **CIVIC GROUPS.** No licensing shall be required of local civic organizations, such as Boy Scouts, Girl Scouts, historic preservation groups, schools, museums, and charitable organizations. Delivery of any publication or material shall be subject to the delivery conditions set forth in subsection (F) below.

(E) **SOLICITED DELIVERIES.** No special license shall be required to make a "solicited delivery" other than the license(s) required by this Title to engage in business.

(F) **UNSOLICITED DELIVERIES.** No special license shall be required of any person making an "unsolicited

delivery" other than the license(s) required by this Title to engage in business. However, any person making an unsolicited delivery of any kind shall not cause unsolicited material to be stacked, piled or accumulated on any driveway, porch, automobile, building, yard, doorway, stairwell, or doorknob, without the prior express consent of the occupant of the premises. It shall be unlawful for any person to deliver any unsolicited material to a residence where that person's previously delivered material remains uncollected. Additionally, any person making such an unsolicited delivery to a residence, who finds his or her prior uncollected material there, shall properly dispose of that person's uncollected material.

(G) **STATE LICENSEES**. Solicitors who hold valid state issued licenses to act as real estate brokers or agents, stock brokers, or insurance agents or salesmen need not obtain a separate solicitor's license from the Town, but shall conduct their solicitation activities in accordance with the provisions of this Code.

(H) **DELIVERY PROHIBITION**. It shall be unlawful for any person to deliver any unsolicited material to any person, residence or premises where the occupant thereof has requested that such delivery cease or where such occupant has posted his/her desire not to receive such unsolicited material.

3- 2-1-24. LICENSE FEES DECLARED TO BE A DEBT AND MAY BE FORWARDED TO A COLLECTION AGENCY.

Any license fee due and unpaid under this Title and all penalties thereon shall constitute a debt to Brian Head Town and may be collected by court proceedings in the same manner as any other debt or may be turned over to a collection agency, which remedy shall be in addition to all other existing remedies.

3- 2-1-25. FEE PAYMENTS, RENEWALS AND PENALTY.

The annual business license fee provided in this Title shall be due and payable to the Town on or before the first day of October of each year for renewals of licenses for businesses which were licensed for the previous license year. Business licenses for previously unlicensed businesses shall be issued for the unexpired portion of the license year in which issued, upon payment of the annual license fee.

If the renewal license fee is not paid on or before October 31 of the year in which the renewal license is due, in addition to the regular renewal fee required there shall be a business license enforcement fee imposed of twenty-five percent (25%) of the license fee imposed by this Chapter or fifteen dollars (\$15.00) whichever is greater.

If the renewal license fee is not paid in full on or before November 30th of the year in which the renewal fee is due, the business license enforcement fee shall be increased to fifty percent (50%) of the license fee imposed by this Chapter. If the renewal license fee is not paid on or before December 15th of the year in which the renewal fee is due, the business license enforcement fee shall be increased to one-hundred percent (100%) of the license fee imposed by this Chapter.

Upon a proper showing that the business is of such a seasonal nature that business has not been conducted to date, the Licensing Officer or designee may waive the business license enforcement fee of said renewals.

Any previously licensed business cited for engaging in business in violation of this Title shall have ten (10) days from the date of citation to come into compliance with this Title. Failure of the licensee to reach compliance within ten (10) days of the date of citation will subject the business to closure and the licensee to all applicable civil and criminal penalties.

3- 2-1-26. RENEWAL BILLING PROCEDURE.

On or before August 01 of each year, the Licensing Officer shall send a license renewal application to each current licensee within the Town at the last known address of the licensee as registered with the Town.

3- 2-1-27. RENEWAL OF LICENSE CERTIFICATE.

Upon receipt of the license fee, the Town shall issue a license certificate valid through September 30 of the next year.

3- 2-1-29. LICENSE FEE ADJUSTMENT TO AVOID BURDENING INTERSTATE COMMERCE.

The business license fee imposed by this Title shall not be applied so as to place an undue burden on interstate commerce. In any case, where the license fee is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce, such licensee or applicant may apply to the Licensing Officer, or his or her designee, for an adjustment of the fee so as to relieve such burden. The licensee or applicant shall, by supporting other information as the Licensing Officer, or his or her designee, may deem necessary in order to determine the extent, if any, of such undue burden. The Licensing Officer, or his or her designee, shall then conduct an investigation, comparing the subject business with other businesses of like nature and shall make findings of fact from which he shall determine whether the license fee is discriminatory, unreasonable or unfair as to the licensee or applicant from the standpoint of its impact on interstate commerce and shall recommend to the Town Manager an appropriate license fee under the circumstances and the Town Manager shall fix the license fee in such amount. If the regular license fee has already been paid, the Town Manager shall order a refund of any amount over and above the amount of the license fee fixed, if any. In fixing the fee to be charged, the Licensing Officer, or his or her designee, may use any method which will assure that the fee assessed shall be uniform with that assessed on business of like nature; provided, however, that the amount assessed shall in no event exceed the regular fee prescribed in this Title.

SECTION II - SUSPENSION AND REVOCATION OF TOWN-ISSUED LICENSES

3-2-2-1. GROUNDS FOR REVOCATION OR SUSPENSION.

Licenses issued under this Title may be suspended or revoked by the Licensing Officer, Hearing Officer or Town Council for the following reasons:

- (1) Licensee has filed false or fraudulent information on the license application;
- (2) Licensee has been convicted of or plead guilty to or paid fines or settlements in criminal or civil actions brought by the State Tax Commission for the collection of, or arising from the non-payment of, taxes imposed by or collected by the state of Utah;
- (3) Licensee has permitted its employees, agents or patrons, to engage in illegal activities on the licensed premises;
- (4) The business has been the subject of a sufficient number of consumer complaints that it has the effect of tarnishing the reputation of other businesses within Brian Head; and
- (5) Any of the grounds for denial of a license application as set forth in Section 3-2-1-8, License Denial.

3-2-2-2. ACTION OF TOWN MANAGER OR DESIGNEE.

Upon receiving a written complaint from any person alleging a violation of any provision of this Title by the licensee or an agent of the licensee, the Town or anyone designated by the Town Manager with the assistance of such other departments of the Town as the Town Manager may direct shall conduct an investigation of the allegations of the complaint. The Town will not investigate consumer or product liability complaints. Upon completion of the investigation, the Town Manager may dismiss the matter as being without merit, settle the matter based upon the negotiations the Town Manager or designee may have undertaken with the licensee, or cause an Order to Show Cause to be issued to the licensee requiring the licensee to come forward and answer the allegations of the Order to Show Cause.

The Order to Show Cause may be based upon an affidavit filed by the Town Manager, Town Attorney, or anyone else the Town Manager has designated to file such action, and said Order to Show Cause shall specifically set forth the ordinance sections alleged to have been violated and generally describe the acts in violation.

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2 In the event an Order to Show Cause is issued to the licensee, the Town Manager shall determine whether to refer the
3 matter to the Town Council, or to hear the matter directly himself. The Order to Show Cause shall be issued at least
4 fourteen (14) calendar days prior to the date set for the administrative hearing, but the hearing shall be commenced, in
5 any event, within six months of the service of the Order to Show Cause upon the licensee unless otherwise agreed by the
6 parties. Within ten (10) days from the date of the service of the Order to Show Cause, the licensee shall file with the
7 Town a written response to the allegations contained therein.
8

9 If the matter is to be heard by the Town Council, the Town Council may elect one of its members to act as presiding
10 officer for the hearing. The presiding officer shall rule on all matters of controversy which arise during the hearing. The
11 Town Council may designate one or more of its members to act as a hearing panel, in which event the hearing panel shall
12 follow the same procedural requirements as the Town Manager is required by this Chapter to follow.

13 **3-2-2-3. REVOCATION OR SUSPENSION HEARING.**

14

15 In all administrative license revocation or suspension proceedings, a hearing shall be conducted as follows:

16
17 The Hearing Officer or Presiding Officer shall regulate the course of the hearing to obtain full disclosure of relevant facts
18 and afford all parties the reasonable opportunity to present their positions. The Hearing Officer or Presiding Officer may
19 determine the length of the hearing and may prevent the calling of witnesses or admission of documentary evidence
20 where such witnesses or evidence are irrelevant, immaterial, unduly repetitious, or unnecessary due to the receipt of
21 other evidence.
22

23 Technical rules of evidence required in court proceedings shall not apply, and the presiding officer or Hearing Officer
24 shall not exclude evidence solely because it is hearsay. The presiding officer or Hearing Officer may afford to all parties
25 the opportunity to present evidence, argue, respond, conduct cross-examination, and submit rebuttal evidence within the
26 time frame of the hearing established by said officer.
27

28 All testimony presented at the hearing shall be given under oath administered by a person duly authorized to administer
29 oaths. The hearing shall be recorded by electronic means or by means of a Certified Shorthand Reporter. The record thus
30 created shall be preserved by the Town Council until such time as it is clear that no court proceedings or further
31 administrative proceedings will be held concerning the matters which are the subject of the hearing, but a minimum of
32 one year. The recording may be transcribed at the request of any party, at the expense of the requesting party.
33

34 The licensee shall have the right to appear at the hearing in person or by counsel, or both. Subpoenas and other orders to
35 secure the attendance of witnesses or the production of evidence shall be issued by the Hearing Officer when requested
36 by any party, or may be issued by the presiding officer or hearing examiner on his or her own motion. The mere issuance
37 of subpoenas shall not operate to require the admissibility of evidence or testimony subpoenaed.
38

39 Upon request, both the Town and the licensee shall be entitled to discovery of the other's list of witnesses to be called at
40 the hearing, including the names and addresses of such witnesses. The parties shall be entitled to have copies of, or have
41 access to any documents to be used by either side during the course of the hearing. No other formal discovery shall be
42 required. The standard of proof required for any action adverse to the licensee shall be that of proof by a preponderance
43 of the evidence.
44

45 The presiding officer, if the Town Council hears the matter itself, or the Hearing Officer, shall prepare written Findings
46 of Fact. In the case of the Hearing Officer, the Hearing Officer shall submit said Findings, to the Town Council. The
47 Town Council shall either accept or reject the Findings of Fact, or enter its own Findings, and shall state the basis from
48 the record upon which the divergence from the Town Manager's recommended Findings. The Town Council shall
49 prepare written Conclusions of Law and an Order.
50

51 The Order formally entered by the Town Council may be to:

- 52
53 (1) dismiss the action against the licensee;
54
55 (2) suspend the license for a specified period;
56
57 (3) place the licensee on probation upon such conditions as the Town Council may order;
58

(4) permanently revoke the license in question; or

(5) any combination of the above.

Any licensee aggrieved by an Order of the Town Council entered pursuant to this section may maintain an action for relief therefrom in any court of competent jurisdiction, where said court deems itself the appropriate forum for the appeal from the Town Council's action. The licensee shall be required to follow orders and procedures of the appropriate court with regard to time for filing.

Nothing herein shall be construed to require a showing that the licensee shall have been first convicted in a court of laws of any violation of any law, rule or regulation. All notices required by this section may be made by personal service or by certified mail, mailed to the licensee's address as it appears in the business regulation records of the Town, postage prepaid, certified, return receipt requested.

3- 2-2-4. CRIMINAL PENALTY.

Any person who willfully violates any provision of this Chapter shall be guilty of a Class B misdemeanor. Persons conducting business without having first obtained a Business License are subject to the business being closed.